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## **Presidential Power: The Growth of the American Presidency**

### ***Introduction***

Over the years, the Office of the President of the United States has seen a near exponential increase in the amount of power it wields. Framers of the Constitution, who were naturally wary of strong executive power, feared that the presidency would become too powerful. In that regard, they took careful steps to restrict the power of the president. But, in addition of fearing a strong executive, they also feared a strong legislature. In *Federalist #51*, James Madison suggests the the executive should be *stronger* than originally planned to help combat an all-powerful legislature, saying, “As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified.” In this, the Framers incorporated provisions for the president to check the legislative branch, which has ultimately been the basis for the growth of presidential power. In addition to the Framers crafting a strong executive, the individual presidencies of George Washington, Andrew Jackson, and Abraham Lincoln have all vastly increased the power of the president.

The idea of a strong, unified president was championed by Alexander Hamilton. In *Federalist #70*, Hamilton argues that the executive must be a unified branch, vesting the power into one, single individual. He argued that one individual would be decisive, execute decisions in a speedy manner, and would be able to maintain secrecy when secrecy is required. In the *Federalist Papers*, Hamilton outlines the president as a check on Congress and the public. He believes the president is able to stand above the petty day-to-day politics and govern purely, and

would ultimately be more responsible as a leader (Lecture). In *Federalist #71*, Hamilton ultimately supports the idea of four year terms for the president, but he also stresses that with an election hanging over the head of the president, “his conduct, his confidence, and with it his firmness, would decline.” Hamilton’s views on the president were considered heavily when drafting the Constitution, which ultimately creates a strong executive in the presidency.

### ***The Constitution***

The powers of the president, with the exception of the veto, are enumerated in Article II of the United States Constitution. These powers include the president’s power to veto legislation passed by Congress, the power of the pardon, the power to make treaties, the power to act as Commander-in-Chief, the power of presidential appointments and commissioning, the power to convene Congress, and the power to “take care” that the laws of the United States are being faithfully executed (Nelson and Milkis). Each of these enumerated powers grants the president a certain level of freedom in acting without the consent of the Congress, and some are certainly more important to examine than others.

Article II, Section 1, Clause 1 of the United States Constitution vests the executive power of the government solely in the hands of the President of the United States. Comparably, the Constitution vests the legislative power of the United States in the Congress, which is split into two houses, and the judicial power of the United States in the Supreme Court, as well as other “inferior” courts that have since been established. The executive branch is the only branch in which all power is vested into the hands of one individual. This gives the President with immense power over the composition and administration of the executive branch. Gouverneur Morris, a pro-executive who served as the chief drafter for the Committee of Style, constructed

the wording of the “vesting clauses” for all three branches. In the vesting clause for the legislative branch, Morris included the phrase “*herein granted,*” which has since allowed presidents to argue that the power of the presidency extends beyond the enumerated powers of the Constitution (Nelson and Milkis 44). This is an extremely important component that has led to the powerful presidency that we see today.

Another important component of the United States Constitution to consider when examining the power of the American president is the Faithful Execution Clause, which states that the president “shall take Care that the Laws be faithfully executed” (Article II, Section 3). This clause allows for the president to ignore some laws by simply not enforcing them, while strictly following others. This clause not only grants the president the power to *enforce* the law, it also grants the ability for the president to *interpret* laws. This clause has been key to the expanded power enjoyed by present-day presidents.

Finally, the role of the president as Commander-in-Chief of the United States military as established in Article II, Section 2, Clause 1 has also been interpreted much more loosely over the years, granting the president much more power over the use of force around the world. Though no “declaration of war” has been passed by the Congress in the United States since World War II, the president has continuously moved troops into combat zones with (and without) Congressional approval. This continues to be a divisive issue and highlights the power of the presidency.

### ***The Presidents***

As the first President of the United States, George Washington laid the groundwork of presidential power for all those who followed. One of the most important steps Washington took

was to create the image of the American president. While traveling to New York to be sworn in, Washington spent time in many of the hamlets along the way, speaking with average citizens so as to cement the image that the president is not royalty, but just an ordinary person (Nelson and Milkis 78).

One of Washington's lasting legacies was the establishment of a cabinet that served at the discretion of the president (Lecture). When Washington took office, it had not really been determined whether the heads of departments would be answerable to the president, or if they would be their own, independent chiefs-of-administration. Washington ultimately viewed members of the cabinet as "assistants or deputies" of the president. Further, Washington secured the right for presidents to remove heads of departments without Congressional approval (Nelson and Milkis 79). According to Nelson and Milkis, Washington also cemented the idea of presidential "supremacy" in terms of authority over the executive branch. This was a critical precedent that has allowed presidents since Washington complete control over the executive.

Andrew Jackson was the first "political outsider" to be elected President of the United States, and was seen by many as the first "common man" to serve in the position (Nelson and Milkis 127). Jackson's presidency was understandably based on equality for the common man and diminishing the power of elites in the country. Almost ironically, while attempting to achieve this, Jackson created a more powerful presidency by "challenging Congress's status ... as the principal branch of representation" (Nelson and Milkis 128). He did this by traveling the country, speaking with citizens on a consistent basis, and creating a spirit of democratic nationalism.

One of Jackson's most important decisions as president was to veto legislation rechartering the Bank of the United States. The veto is seen by many historians as one of the

most important presidential vetoes, and it furthered the power of the presidency significantly. Jackson's decision to veto went beyond the idea of vetoing legislation because it was unconstitutional, and instead allowed the president to look at the social, economic, and political implications of congressional action (Skowronek 37).

The Bank responded by attempting to squeeze the nation into a financial crisis, and the Senate issued a formal censure of the President, but Jackson had the political skill to shift the blame for the panic back to the bank and ultimately maintain political power on the national stage (Skowronek 38). Weeks before leaving office, the Resolution of Censure was officially removed from the Senate journal. This signified a personal win for President Jackson, and ultimately cemented the president's power to control the executive branch (Nelson and Milkis 128).

Abraham Lincoln's tenure vastly expanded the power of the president. Though governing during extraordinary times, his legacy has had a lasting impact on the presidency. In a letter discussing his interventionist policy when concerning the issue of slavery, and his possible unconstitutional actions as president, Lincoln states, "I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the constitution, through the preservation of the nation. Right or wrong, I assumed this ground, and now avow it."

This thought process allowed Lincoln, and presidents who would follow, the ability to act in the best interest of the nation even if their actions could be viewed by some as unconstitutional. It's important to note, however, that although Lincoln expanded the power of the presidency to immeasurable amounts during the war, he remarkably did nothing to interfere

with elections during this time (Nelson and Milkis 170). Because the Framers spent much more time crafting the legislative aspect of the Constitution, they ultimately allowed a broad interpretation of the presidency and the executive.

### **Conclusion**

Over the years, the power of the American president has been increased exponentially. The Framers of the Constitution took important steps to reign in the powers of both the legislative and executive branches. George Washington, with help from James Madison, fought to secure the right of the president to have complete control over the executive branch. Andrew Jackson cemented the image of the president as the voice of the people, even eclipsing the representative bodies of the House and the Senate. Abraham Lincoln furthered the power of the president in the role as Commander-in-Chief, governing in a time of extreme chaos and extraordinary circumstances. All of these presidents in their terms, as well as the foundation laid by Alexander Hamilton, increased presidential power to a degree never imagined by the Framers of the Constitution.